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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/787,080	02/27/2004	Katsutoshi Misuda	03500.015757.1	4301	
5514 7590 11/08/2007 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA			EXAMINER SHEWAREGED, BETELHEM		
			1794		
			MAIL DATE	DELIVERY MODE	
			11/08/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)	
10/787,080	MISUDA ET AL.	
Examiner	Art Unit	· · · · · · · · · · · · · · · · · · ·
Betelhem Shewareged	1794	

	Betelhem Shewareged	1794					
The MAILING DATE of this communication appe	ars on the cover sheet with the c	orrespondence add	ress				
THE REPLY FILED 22 October 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.							
The reply was filed after a final rejection, but prior to or on this application, applicant must timely file one of the follow places the application in condition for allowance; (2) a No a Request for Continued Examination (RCE) in compliance time periods:	the same day as filing a Notice of ving replies: (1) an amendment, aft tice of Appeal (with appeal fee) in the contract of the	Appeal. To avoid aba fidavit, or other evider compliance with 37 C	nce, which FR 41.31; or (3)				
a) The period for reply expires 3 months from the mailing date	of the final rejection.						
b) The period for reply expires on: (1) the mailing date of this A no event, however, will the statutory period for reply expire to Examiner Note: If box 1 is checked, check either box (a) or (TWO MONTHS OF THE FINAL REJECTION. See MPEP 70	ater than SIX MONTHS from the mailin b). ONLY CHECK BOX (b) WHEN THI 06.07(f).	g date of the final rejecti E FIRST REPLY WAS F	on. ILED WITHIN				
Extensions of time may be obtained under 37 CFR 1.136(a). The date nave been filed is the date for purposes of determining the period of exunder 37 CFR 1.17(a) is calculated from: (1) the expiration date of the set forth in (b) above, if checked. Any reply received by the Office later may reduce any earned patent term adjustment. See 37 CFR 1.704(b) NOTICE OF APPEAL	tension and the corresponding amount shortened statutory period for reply orig than three months after the mailing da	of the fee. The appropr inally set in the final Offi	iate extension fee ce action; or (2) as				
2. The Notice of Appeal was filed on A brief in comp filing the Notice of Appeal (37 CFR 41.37(a)), or any exte a Notice of Appeal has been filed, any reply must be filed AMENDMENTS	nsion thereof (37 CFR 41.37(e)), to	avoid dismissal of th	ns of the date of the appeal. Since				
<ul> <li>The proposed amendment(s) filed after a final rejection,</li> <li>(a) They raise new issues that would require further co</li> </ul>			ecause				
<ul> <li>(b) They raise the issue of new matter (see NOTE belo</li> <li>(c) They are not deemed to place the application in being appeal; and/or</li> </ul>		educing or simplifying	the issues for				
(d) They present additional claims without canceling a NOTE: (See 37 CFR 1.116 and 41.33(a)).	corresponding number of finally rej	jected claims.					
4. The amendments are not in compliance with 37 CFR 1.15. Applicant's reply has overcome the following rejection(s)		ompliant Amendment	(PTOL-324).				
<ol> <li>Newly proposed or amended claim(s) would be all non-allowable claim(s).</li> </ol>		timely filed amendme	ent canceling the				
7. For purposes of appeal, the proposed amendment(s): a) how the new or amended claims would be rejected is pro The status of the claim(s) is (or will be) as follows:	will not be entered, or b)    winded below or appended.  ■ winded below or appended below or appended.  ■ winded below or appended below or appended below or appended below or appended by a winded by a wi	ill be entered and an o	explanation of				
Claim(s) allowed: Claim(s) objected to:							
Claim(s) rejected: <u>13-17</u> . Claim(s) withdrawn from consideration:							
<ul> <li>AFFIDAVIT OR OTHER EVIDENCE</li> <li>The affidavit or other evidence filed after a final action, but because applicant failed to provide a showing of good an was not earlier presented. See 37 CFR 1.116(e).</li> </ul>	nt before or on the date of filing a N d sufficient reasons why the affida	lotice of Appeal will <u>n</u> vit or other evidence i	ot be entered s necessary and				
9. The affidavit or other evidence filed after the date of filing entered because the affidavit or other evidence failed to of showing a good and sufficient reasons why it is necessar	overcome <u>all</u> rejections under appe y and was not earlier presented. S	al and/or appellant fa See 37 CFR 41.33(d)(	ils to provide a 1).				
10. ☐ The affidavit or other evidence is entered. An explanatio REQUEST FOR RECONSIDERATION/OTHER							
<ol> <li>The request for reconsideration has been considered bu <u>See Continuation Sheet.</u></li> </ol>		n condition for allowa	nce because:				
<ul><li>12. ☐ Note the attached Information Disclosure Statement(s).</li><li>13. ☐ Other:</li></ul>	(PTO/SB/08) Paper No(s)						

Continuation of 11. does NOT place the application in condition for allowance because: Claim 13 recites ---at least 90% of all particles of the gamma crystal structure have a particle diameter of at MOST 1.0um---. At most 1.0um is broad and includes any value less than 1.0um. Since the particle size of 0.21um-0.3um of Mishima overlaps the claimed particle size value of 0.21-1.0um, at least 90% of the particles of Mishima should be at most 1.0 um.

ETELHEM SHEWAREGED DRIMARY EXAMINER